

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DR. NATHANIEL M. FLOYD, PH.D,

Plaintiff,

COMPLAINT

-against-

SOUTHERN WESTCHESTER BOCES,

Defendant,

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COMPLAINT AND JURY DEMAND

I. PRELIMINARY STATEMENT

1. This is a civil action based upon Defendants' violations of the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. § 621 et seq by discriminating against Plaintiff by being subjected to a hostile work environment, and disparate treatment due to his age. This action seeks declaratory, equitable relief, compensatory damages, costs and attorney fees.

II. JURISDICTION AND VENUE

2. Plaintiff has commenced this action pursuant to the ADEA. Plaintiff duly filed a formal complaint with the EEOC and the charge has been pending more than 60 days conferring jurisdiction on this Court.

3. This action properly lies in the Southern District of New York, pursuant to 28 U.S.C. 1391 (b), because the claim arose in this District and because the unlawful employment practice was committed in this District.

III. THE PARTIES

4. Plaintiff (is over 40 years of age) is employed as a psychologist by defendant. Plaintiff was discriminated against due to his age. Plaintiff is a statutory plaintiff in that he has been subjected to intentional discrimination due to his age as set forth below.

5. Defendant(hereinafter “defendant”) is the statutory defendant and is an employer as defined by the ADEA in that it employs more than twenty employees.

IV. FACTUAL STATEMENT

6. Plaintiff Nathaniel Floyd, Ph.D (Dr. Floyd) has been employed by Southern Westchester BOCES for thirty-two years as a Psychologist.

7. Dr. Floyd is a New York State Licensed and Certified School Psychologist.

8. Dr. Floyd is currently seventy-two years of age (DOB: 4/13/1941).

9. Dr. Floyd was hired to perform counseling for teenagers, including performing evaluations of students and offering parental support. There are currently ten Psychologists employed by Southern Westchester BOCES, with Dr. Floyd being the oldest.

10. Dr. Floyd has been subjected to an intentional and continuous pattern of discrimination that has created a hostile work environment and disparate treatment due to Dr. Floyd’s age to wit:

- (1) Six years ago Dr. Floyd was transferred to work with students who had multiple disabilities.
- (2) Dr. Floyd has been harassed in an effort to force him to resign.
- (3) False accusations were asserted against Dr. Floyd.

- (4) Dr. Floyd was called in to a meeting with Mary Ellen Betzler and Sheila McGuinness on February 27, 2013 and given a paper threatening to bring baseless Education Law 3020-a charges against him if he did not resign. These false accusations were made based on Dr. Floyd arriving to a school site as he was assigned to do and the school reporting it as a breach of security. Dr. Floyd refused to resign and charges were not filed against him.
- (5) Dr. Floyd was given an unsatisfactory Annual Professional Performance Review (“APPR”) on June 21, 2013, his first such unsatisfactory review in thirty-two years of employment with Southern Westchester BOCES. The APPR consisted of serious inaccuracies, false statements and highly defamatory judgments about Dr. Floyd. Further, (upon information and belief) while Dr. Floyd’s supervisor, Neil Manis, purported to prepare the APPR, it is very apparent that the Manis did not author this APPR. Manis has improperly allowing unauthorized individuals access to Dr. Floyd’s personnel records and professional papers and had other individuals prepare the APPR.
- (6) In the 2013-2014 school year Dr. Floyd was back in his original position with the career center until he was subjected to a mid-year transfer on January 6, 2014 back to his position working with students with multiple disabilities. This position was given to him to force him to resign.
- (7) Dr. Floyd was sent by the Southern Westchester BOCES administration for physical exam, along with two other older, male employees (one was a gym teacher in his 50's). Dr. Floyd was deemed fit for duty and the Physician who

examined the three employees stated that there was nothing wrong with any of the three men and that it seemed like they were being harassed (inferring due to their age) by being sent for physicals.

(8) Other acts of discrimination.

11. As a result of the foregoing, Southern Westchester BOCES violated the Age Discrimination in Employment Act of 1967 as amended (ADEA) discriminating against Dr. Floyd due to his age (disparate treatment and a hostile work environment).

FIRST CLAIM FOR RELIEF

12. As a result of the foregoing, Southern Westchester BOCES violated the Age Discrimination in Employment Act of 1967 29 U.S.C. 621 et seq. as amended (ADEA) discriminating against Dr. Floyd due to his age (disparate treatment and a hostile work environment).

DEMAND FOR A JURY TRIAL

13. Plaintiff demands a trial by Jury of all issues and claims in this action.

PRAYER FOR RELIEF

WHEREFORE, plaintiff demands judgment in her favor and against the defendant as follows:

1. that the Court find and declare that she has suffered for acts of discrimination and retaliation at the hands of the defendants, its agents, servants and employees;
2. that plaintiff be awarded back wages, together with related monetary benefits had she not otherwise been discriminated against;

3. that the Court order such further equitable and injunctive relief as it deems appropriate and necessary to correct the conditions of discrimination;
4. that defendant pay plaintiff's costs of this suit, together with a reasonable attorney's fee;
5. any other relief that is just and equitable;

Dated: New York, New York
July 28, 2014

Respectfully submitted,
THE LAW OFFICES OF
STEWART LEE KARLIN, PC

STEWART LEE KARLIN, ESQ.
Attorney for Plaintiff
9 Murray Street, Suite 4W
New York, N.Y. 10007
(212) 792-9670